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November 20

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CONCORD, N.H.

Mr. Russell B. Tokey, Director
Recreation Division
Forestry and Recreation Commission
State House Annex
Concord, New Hampshire

Dear Mr. Tobey:

This is in reply to your letter of November 18, 1958, in which you indicate that you are considering the possibility of entering into an agreement with the Federal Government whereby your agency would operate a sub-post office at the Tramway located in the Franconia Notch State Park. You have enclosed a form agreement of the Post Office Department which you will have to execute in order to obtain the right to operate a sub-post office. This agreement binds you to provide adequate quarters and equipment for the transaction of postal business and by it you further agree to conduct the station under the supervision of the Postmaster and to provide such services as he may require, including the sale of stamps, money orders, and the acceptance, delivery and dispatch of ordinary registered, insured, certified and C.O.D. mail. You request our opinion as to whether the Recreation Division can enter into this agreement and what authority you may need in order to do so.

RSA 218:5, III provides in part that the Director of Recreation "upon terms approved by the commission, may enter into cooperation with departments of the federal government and other public and private agencies for the development or promotion of recreational facilities or services for public uses within the state." We are doubtful that this authority is broad enough to allow you even with the approval of the Commission to enter into an agreement with the Post Office Department for the operation of a post office since the authority conferred by the clause quoted above seems to relate pretty directly to the development or promotion of facilities or services of a recreational nature. It does not appear to be broad enough to include agreements for the provision of services which are only incidental to a recreational activity.

C O P Y

Mr. Russell B. Tobey, Director

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However, on the whole we are of the opinion that since the Commission has rather broad authority to develop recreational sites, facilities and services on state parks and reservations it impliedly has the power to provide services or facilities which, although they are not of a strictly recreational nature in themselves, nevertheless are in the nature of an ancillary service to the main purpose and serve as a convenience to a recreation facility or service generally. We believe that the proposed post office at the Tramway falls within this category and that the Commission, subject to the approval of the Governor and Council, may authorize you to enter into the necessary agreements with the Post Office Department. I am sure that you are fully aware of the duties and burdens which will be imposed upon your agency if this agreement is actually consummated. However, in the first instance, it is a question of judgment for the Commission and in the final analysis for the Governor and Council to decide whether the conveniences and benefits to be derived for the Tramway area by the provision of postal facilities outweigh the disadvantages which will accrue from the extra bookkeeping and red tape generally involved.

Sincerely yours,

John J. Zimmerman
 Assistant Attorney General

JJZ/lr